



Appeal Decision

Site visit made on 27 May 2025

by **Lynne Evans BA MA MRTPI MRICS**

an Inspector appointed by the Secretary of State

Decision date: 04 July 2025

Appeal Ref: APP/R0335/W/25/3361391
12 Dukes Ride, Crowthorne, RG45 6LZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Simon Butterworth (Alleeda Ltd) against the decision of Bracknell Forest Council.
 - The application Ref is 23/00860/FUL.
 - The development proposed is front part of the ground floor reverted to Class E Commercial Business Service Office Use, retention of rear ground floor flat as approved in principle per permission 19/00403/FUL. Installation of new shopfront and provision of rear parking, bin stores, and cycle storage
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Robert Young Associates (Hungerford) Ltd on behalf of the Simon Butterworth against Bracknell Forest Council and this is the subject of a separate Decision.

Preliminary Matters

3. The plans submitted with the appeal by the Appellant include the plans listed by the Council on the refusal notice but also some additional plans including some with different revision numbers to the listed plans; a further plan was submitted at the appeal stage. There are discrepancies across some of these plans.
4. The Council and Appellant have referred to the provision of a one bedroom flat at ground floor and a plan showing a one bedroomed flat was included in the Officer's report. However, the plan listed on the refusal notice by the Council shows a two bedroom flat at ground floor (Plan CR2 011 A) and the application forms also refer to the provision of a two bedroom flat. The additional plan submitted by the Appellant at the appeal stage indicates a one bedroom flat.
5. The plans listed on the refusal notice both show three parking spaces at the rear but in different locations, whereas the additional plan submitted at the appeal stage shows three dimensioned parking spaces. I have taken the plan submitted at the appeal stage into account as it clarifies some of the discrepancies in the submitted plans as listed on the refusal notice. I have noted that there is a proposed change to the shopfront on the plan submitted with the appeal, which is different to the design shown on the plan considered by the Council. I address that further below.

6. The application forms indicate that the works have commenced but not yet completed at the time of submitting the application. I shall therefore consider the appeal on the basis of the submitted plans, as I am required to do.
7. There are references in the appeal submissions to enforcement action at the property but that is not before me, and my consideration is solely directed to the proposals the subject of the appeal before me.

Main Issues

8. The main issues in this appeal are:
 - The effect of the proposed development on highway safety, and
 - Whether the proposed development would secure suitable avoidance and mitigation measures in respect of the Thames Basin Heaths Special Protection Area.

Reasons

Highway Safety

9. The appeal property is an extended two storey building on the north side of Dukes Ride, in an area with a mix of retail, service and residential uses. At the time of my site visit, there was a Class E use operating on the ground floor at the front and a flat to the rear at ground floor and a flat on the first floor.
10. The proposal before me would seek to provide a Class E use at the front of the building, together with a residential flat to the rear and a 2 bedroom flat on the first floor.
11. There has been numerous applications at the site but my understanding is that the ground floor front part of the building has been used for many years for retail use (Class E) and its reinstatement, together with a new shopfront would be acceptable in land use terms given its location in the settlement boundary and within a district centre and given the surrounding retail, service and commercial uses. The Council has also confirmed that there is a lawful use for residential use for a two bedroom flat at first floor.
12. Planning permission was granted in 2019 under the Council's Ref: 19/00403/FUL for a change of use of part of the ground floor retail and ancillary storage floorspace to create a one bedroom ground floor flat at the rear of the ground floor. The description of development also referenced works to the existing first floor flat. I am advised that this permission was never implemented. Although I do not know the arrangement of space in respect of that proposal, it would have included the three elements that are now before me, notably Class E at the front, with a residential flat to the rear at ground floor and a residential flat above.
13. It is my understanding that the Class E use of the ground floor of the building would be appropriate and acceptable and indeed has been the use of the ground floor for many years and the first floor flat is lawful. It therefore appears that the proposal before me would reduce the retail and supporting area at ground floor to provide one further residential flat. It would appear to me that this arrangement of uses on the site has previously been found acceptable by the Council. Although the potential traffic generation from the site has not been calculated, it seems to me

from a consideration of the previous uses in operation and permitted compared with what is now proposed, that the additional traffic generation would be very modest.

14. The photographs provided by the Appellant, possibly dating to 2021, show that there used to be a steel staircase to the side of the property serving the first floor flat that would appear to have restricted any vehicular access to the rear of the building. This suggests, in the absence of any information to the contrary, that there has been retail and residential uses operating at the property without vehicular access to the rear, albeit vehicles may have parked along the front part of the side passageway but necessitating reversing onto the highway.
15. I agree that the side access is narrow as indeed is the overall width of the plot, but this is not uncommon in similar locations and reflecting the age of the building and surrounding buildings. There would be no scope to widen the access, given the buildings on either side. Nonetheless, there is good visibility along the side passageway. I accept that it does not meet current standards, and that two vehicles could not pass along the passageway. However, the distance is relatively short and I consider that signage could be used to prioritise access for vehicles entering the site over those exiting the site, to seek to reduce the occasions when vehicles would be required to reverse onto the highway. Similarly, further signage could be required to address the visibility at the entrance to the site when leaving the site and particularly recognising the proximity of the zebra crossing on Dukes Ride.
16. Although it would not meet current standards because of the width of the plot, there is and would be space to turn vehicles and particularly cars at the rear of the site. I accept that the constraints of the site would mean that some vehicles would need to undertake more manoeuvres than a standard 3-point turn, to enable them to exit in forward gear. However, I do not agree with the Council that this would result in vehicles necessarily opting to reverse out of the site, rather than undertake a greater number of turns within the restricted space to enable egress to be made in forward gear. The width of the access way would constrain some very large vehicles from accessing the rear, but this would always have been the situation. The Appellants have demonstrated that access for fire appliances and their hoses would be feasible and in addition conditions could be imposed to require a fire engineered solution to be provided for the residential unit at the rear.
17. As seen at my site visit, there is scope for parking at the rear of the site, together with space for manoeuvring. Were no other matters of concern and planning permission to be granted, it would be possible to impose a condition to require more information to be provided to seek a balance between maximising the available parking whilst ensuring that manoeuvring could be undertaken at the rear of the site, together with the provision of a cycle and refuse store. The Appellant has also demonstrated that there is some parking availability in the local area and other uses appear to be operating in the locality without specific provision of off-street parking.
18. There was a refusal of planning permission under the Council's Ref: 20/00864/OUT which was also dismissed at appeal under the Ref: APP/R0335/W/21/3274877 for the construction of a two storey building towards the rear of the site for 2 x 2 bedroom flats. Although not specified, these two new residential dwellings would have been in addition to the retail and residential uses in the existing building. The main reasons for refusal at both the application and appeal stages related to concerns on highway safety as well as the absence of a planning obligation to

secure the required contributions to mitigate the adverse effects of the proposal on the Thames Basin Heaths Special Protection Area (TBHSPA). However, I consider that this proposal is materially different to the one before me, in so far as most of the rear part of the site would have been taken up with the proposed new development for two additional residential units. This would therefore have increased the amount of development and intensity of uses on the site as well as materially reducing the extent of the land at the rear available for parking, and manoeuvring. I have taken this decision into account, but it does not persuade me to a different conclusion on highway matters.

19. Paragraph 116 of the Framework is clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety. Taking all the matters into account including the small scale of the proposals before me compared with the previous operating and permitted uses, and whilst acknowledging the substandard access arrangements as existing, which cannot be physically improved upon given the constraints of the site, I do not consider that there would be an unacceptable impact on highway safety. As such, there would be no conflict with the Framework and Policies LP25 and LP62 of the Bracknell Forest Local Plan 2020 – 2037 (2024) in terms of highway safety. The number of parking spaces which could be accommodated would not be fully in line with those set out in the Parking Standards Supplementary Planning Document 2016 if seeking to meet the standards for all of the uses, but in the particular circumstances of this case and taking into account the uses already operating at the site, I do not consider that this would be a reason to withhold planning permission.

TBHSPA

20. The appeal site lies within the 400m and 5 kilometre buffer zone of the TBHSPA. The Council, in consultation with Natural England, has formed the view that any net increase in residential development within this area is likely to have a significant effect on the integrity of the TBHSPA, either alone or in combination with other plans or projects. In accordance with the Thames Basin Heaths Special Protection Area SPD (TBHSPA SPD) a contribution calculated on a per bedroom basis is to be paid to the Council, on commencement of development, towards the costs of measures to avoid and mitigate against the effects on the TBHSPA.
21. There is no dispute between the Appellant and the Council that the proposal leads to the requirement for such a contribution, but the obligation before me is in draft only and has not been agreed with the Council. There are clear guidelines in place setting out the timescales for the submission of planning obligations in relation to planning appeals and these have not in this instance been met. The obligation is unsigned by the Council and the Council advises that, amongst other matters, the contribution amount is incorrect and does not reflect inflationary increases as required.
22. The Appellant has also provided to me an earlier agreement relating to the permission granted in 2020 under the Ref: 19/00403/FUL. For the avoidance of doubt, the agreement must relate to the proposal before me in terms of the current proposal and landowners and I cannot therefore take this into account.
23. In the absence of an acceptable and completed planning obligation to address suitable avoidance and mitigation measures, I cannot be satisfied that the proposed

development would not have an unacceptable impact on the integrity of the TBHSPA either alone or in combination with other plans or projects. This would be contrary to Regulation 63 (5) of the Conservation of Habitats and Species Regulations 2017 (as amended), Policy NRM6 of the South East Plan, Policy LP 32 of the Local Plan and the TBHSPA SPD as well as the Framework and in particular paragraphs 192 and 195, all of which seek to protect and enhance biodiversity.

Other Considerations

24. Were no other matters of concern and planning permission to be granted, the design of the shop front could be reserved out by condition for subsequent approval.

Planning Balance and Conclusion

25. I have found that the proposed development, subject to the imposition of conditions, would be acceptable in terms of highway safety. However, in the absence of a completed planning obligation, I cannot be satisfied that the proposed development would not have an unacceptable impact on the integrity of the TBHSPA either alone or in combination with other plans or projects. Consequently, there would be conflict with the development plan policies which are consistent with the Framework's position of protecting biodiversity, including designated habitats sites. As a result, I attach significant weight to this conflict.
26. The Appellant has contended that the Council cannot meet its five year housing land supply requirement, whilst the Council has indicated a 5.15 housing land supply as of 1 April 2024. The position at this current point in time is not completely clear. Moreover, whilst the site would provide an additional one bedroom unit in a generally accessible location, Footnote 7 to paragraph 11 d) i) is clear that policies in the Framework that relate, amongst other matters, to habitats sites are not to be regarded as out of date where they provide a clear reason for refusing the development proposed. This is the case in the circumstances of the proposal before me. The 'tilted balance' would not be engaged and the presumption in favour of sustainable development does not apply in this case.
27. The proposal would not accord with the development plan and there are no other material considerations to override this finding. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should be dismissed.

L J Evans

INSPECTOR